

BEFORE THE  
WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 169

Served July 16, 1962

IN THE MATTER OF:

Application of Holiday Tours, Inc., )	
for a Certificate of Public )	Application No. 151
Convenience and Necessity )	Docket No. 11

APPEARANCES:

Leonard A. Jaskiewicz, Attorney for Applicant.

Manuel J. Davis, Attorney for Washington, Virginia and Maryland Coach Company, Inc., Protestant.

D. J. Hyman and Irwin Liptz, Attorneys for W M A Transit Company, Protestant.

John R. Sims, Jr., Attorney for D. C. Transit System, Inc., Protestant.

S. Harrison Kahn, Attorney for A. B. & W. Transit Company, Gray Lines, and Diamond Tours, Protestants.

Warren Woods, Attorney for Atwood's Transport Lines, Inc., and Raymond Warrenner, dba Blue Line Sightseeing Company, Protestants.

Holiday Tours, Inc., filed an application for a certificate of public convenience and necessity to authorize: (a) the interstate transportation of passengers and their baggage in special operations in round trip sightseeing or pleasure tours and in charter operations between all points in the District of Columbia, cities of Alexandria and Falls Church, the counties of Arlington and Fairfax and political subdivisions thereof, Virginia, and the counties of Montgomery and Prince George's and political subdivisions thereof, Maryland; (b) passengers and their baggage intrastate in special operations in round trip sightseeing or pleasure tours and in charter operations, (1) between all points and places within the District of Columbia, and (2) between all points and places within Montgomery and Prince George's Counties, and political subdivisions thereof,

within the State of Maryland. Notice of the application was published in compliance with the Commission's directive, and protests to the application were required to be filed, in writing, at least five (5) days prior to the hearing. All of the protests were timely filed with the exception of that filed by W M A Transit Company. At the institution of the hearing, the applicant objected to the participation in the hearing by W M A Transit Company. The motion to intervene by W M A Transit and the objection to the motion were held in abeyance by the Commission, and W M A Transit Company was allowed to participate in the hearing pending the Commission's decision. The Commission now rules that the protest was not timely filed nor was good cause shown for the basis of intervention, and the Commission will disregard any evidence put in the record on behalf of W M A Transit Company.

#### FACTS OF THE CASE

The applicant seeks authority to engage in special and charter operations throughout the Metropolitan District. Application is opposed by seven carriers, all of whom have been issued extensive special and charter operation authority by the Interstate Commerce Commission, and all have pending "grandfather" applications on file with the Commission and are currently operating on that basis. It is clear that all have authority to engage in all or portions of the area sought to be served by the applicant.

Seventeen witnesses testified in behalf of the applicant, in addition to the applicant's president. Fourteen of these witnesses were owners or employees of various motels and tourists' homes located in the metropolitan area. Another witness was affiliated with the Chamber of Commerce, of which organization the applicant's president is a member. The accountant for the applicant testified, as did the head of a finance company.

Practically all of the witnesses would receive a financial benefit if Holiday Tours receives the authority it seeks. It appears that the applicant has been engaged in limousine operations to some extent in the metropolitan area and has entered into arrangements to pay commissions or flat fees to many of the motels represented by applicant's witnesses. In addition, applicant has in the past, and would obviously do so in the future, referred its customers to the motels for purpose of room and board, thus adding to the revenues of the motels. The applicant operates newsstands in several of these motels. Most of the witnesses testified that they had no knowledge as to the need of the public for the proposed service, but that the motels would use and benefit from it. Many testified that the service rendered by the protestants had been satisfactory in the past.

Both the president of the applicant and its accountant testified as to the financial ability of the company. The applicant is primarily managed and operated by its president, Walter L. Davis.

Each of the protestants produced a witness in its behalf. Basically, they all testified that they were rendering special and charter service, and that in their opinion their service--and that of the other protestants--was adequate to meet the needs of the public, and that they were ready and willing to perform the sightseeing needs. Three of the protestants are carriers having extensive regular route authority within the Metropolitan District. Their witnesses testified that the transportation sought to be performed was an important part of the over-all business of these carriers, and that the proposed service, if granted, might make it necessary to raise their regular route common carrier fares. The record also indicated a substantial number of limousine operators render sightseeing transportation within the Metropolitan District.

The protestants also presented evidence to show the lack of fitness of the president and real operator of applicant, the details of which are fully set forth in the record; the Commission feels that it is neither necessary nor desirable to restate them herein.

#### ISSUES

1. Is the proposed transportation required by public convenience and necessity?
2. Is the applicant financially able to render the proposed transportation?
3. Is the applicant fit to perform the proposed transportation properly?

#### OPINION

The Commission is of the opinion and finds:

(1) That the applicant failed to produce evidence to indicate that the proposed service sought to be performed is required by public convenience and necessity. The witnesses who testified on behalf of applicant could not be classified as disinterested witnesses, and many of them stand to benefit from the approval of the within application.

(2) That the financial ability of applicant to perform the transportation has not been proved satisfactorily to the Commission.

(3) In view of the findings of the Commission in connection with the issues of public convenience and necessity and financial ability of applicant, it is unnecessary for the Commission to enter a finding on the applicant's fitness to perform the proposed transportation.

DECISION

THEREFORE, IT IS ORDERED that the application be, and it is hereby, denied.

BY DIRECTION OF THE COMMISSION:

A handwritten signature in cursive script, appearing to read "Delmer Ison", is written over the printed name.

DELMER ISON  
Executive Director